

**REMARKS**

Claims 32-34, 36, 37, 42-47, and 49-53 are currently pending in this application. Claims 32-34, 36, and 37 have been allowed and claims 38-45 have been withdrawn from consideration by the Examiner. By way of this Reply, claims 20-31, 38-41, and 48 have been cancelled, without prejudice, claims 46 and 49 have been amended, and claims 50-53 have been added. Applicants respectfully submit that no new matter has been introduced into this application by these amendments.

Claim 46 has been amended in compliance with the Examiner's remarks. Claim 49 has been amended to correct a grammatical error. Claim 50 has been added to recite a method for producing an identified compound having the characteristics of affecting the binding of HLA-E to CD94/NKG2 receptors. It is respectfully that the method of claim 50 is not disclosed or suggested in the prior art, and, therefore, claim 50 should be in condition for allowance. New claims 51-53 have been added to more distinctly claim subject matter which the Applicant(s) regard(s) as the invention

**Election/Restriction**

The Examiner withdrew claims 38-45 from consideration asserting that they are directed to an invention that is independent or distinct from the invention originally claimed. In support thereof, the Examiner stated the following:

Applicant has already received an action on the merits of the claimed invention of "Compounds identified by the method according to claim 20 [32] as affecting the binding of HLA-E to CD94/NKG2 receptors" (claims 23 and 35 respectively). Applicant has amended the claims in an attempt to separate small peptides from other potential embodiments, such as antibodies. However, antibodies of claims 38-45 represent a compound distinct from the compound on which Applicant has already received an examination on the merits of the claims.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

Applicants respectfully traverse this restriction requirement. Based on the Examiner's comments, it appears that the Examiner has restricted Applicants' compound claims directed to small peptides (claims 23 and 35) from Applicants' compound claims directed to antibodies (pending claims 42-45). Because Applicants December 2, 2004 Reply amended original claims 23 and 35 to recite small peptides, the Examiner has asserted that Applicant constructively elected these claims.

Applicants note that both small peptides and antibodies are both specific "compounds" within the range of "compounds" recited in original claims 23 and 35 as supported by the specification. See specification at the paragraph at pg. 8, lns 6-27, pg. 11, ln. 23 – pg. 12, ln. 4, Table 1 (pg. 19), Table 2 (pg. 26), Examples 2, 3, 4, and 8 (pgs. 21- 36). The decision to amend claims 23 and 35 in Applicants' December 2, 2004 Reply to recite small peptides was arbitrary, and Applicants could have just as easily amended these claims to recite antibodies. If one were to

compare claims 23 and 35 to claim 41, they are identical with the exception of the distinction between small peptides and antibodies. Applicants' decision to amend claims 23 and 35 to recite small peptides cannot serve as a proper basis for a constructive restriction. As set forth above, Applicants have cancelled claims 23 and 35, and respectfully request the opportunity to pursue/elect claims 42-45 in the present case if the Examiner believes that small peptides and antibodies are distinct inventions.

**Claim Rejections - 35 U.S.C. § 102(a)**

Claims 23 and 35 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Aldrich et al. (1994) Cell 79:649-658, as evidenced by Brooks et al. Journal of Immunology (1999) 162:305-313. Claims 23 and 35 have been canceled, without prejudice, to obviate this rejection.

**Claim Rejections - 35 U.S.C. § 112**

Claims 20-22 and 46-49 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In order to obviate this rejection, claims 20-22 and 48 have been canceled, and the phrase, "any alternative splicing products," has been deleted from claim 46, without prejudice. Applicants respectfully submit that claim 49 should not have been included in this rejection because it depends from claim 32 which does not include this phrase, and has been deemed allowable.

**Applicant:** Braud et al.  
**Application No.:** 09/555,555

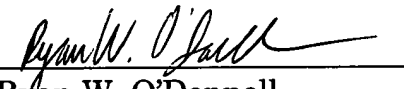
**Conclusion**

For the above reasons provided above, it is respectfully submitted that pending claims 32-34, 36, 37, 42-47, and 49-53, are in condition for allowance. Accordingly, reconsideration and allowance of all pending claims is respectfully requested.

If the Examiner does not believe that the claims are in condition for allowance, the Examiner is respectfully requested to contact the undersigned at 215-568-6400.

Respectfully submitted,

Braud et al.

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